

In Figure 1, line 3, please delete the symbol for the last amino acid residue, "G." Thus, "G-NH₂" becomes --NH₂--.

In Figure 1, line 3, after "Exendin-3," insert --SEQ. ID. NO. 1]--.

In Figure 1, line 5, after "Exendin-4," insert --[SEQ. ID NO. 2]--.

In Figure 1, line 7, after "Exendin[9-39]," insert --[SEQ. ID NO. 4]--.

Please insert the attached Sequence Listing as pages 51 through 60 respectively. Please renumber the original claims and abstract pages thereafter.

REMARKS

The amendments to the specification are being filed pursuant to 37 C.F.R. 1.821 (e) - 1.825 (d) for entry of the Sequence Listing for this application, and to rewrite or insert sequence identifications.

Restriction Requirement

In the Office Action mailed July 7, 1998, the Examiner has required restriction to one of the following groups of claims:

Group I: Claims 1-11 and 20-21 are drawn to a method of beneficially regulating gastrointestinal motility, classified in Class 514, subclass 2.

Group II: Claim 12 is drawn to a method of treating postprandial dumping classified in Class 514, subclass 2.

Group III: Claims 13 and 16 are drawn to a method of treating postprandial hypoglycemia [sic, hyperglycemia], classified in Class 514, subclass 2.

Group IV: Claims 13 and 14 are drawn to a method of treating postprandial hypoglycemia [sic, hyperglycemia], classified in Class 514, subclass 2.

Group V: Claim 17 is drawn to a method of treating type 1 diabetes, classified in Class 514, subclass 2.

Group VI: Claim 18 is drawn to a method of treating impaired glucose tolerance, classified in Class 514, subclass 2.

Group VII: Claim 19 is drawn to a method of treating ingestion of a toxin, classified in Class 514, subclass 2.

Applicants provisionally elect, with traverse, Group I (claims 1-11 and 20-21).

As the Examiner is aware, Section 803 of the MPEP recites two criteria for a proper restriction requirement: (1) The inventions must be independent or distinct as claimed; and (2) There must be a serious burden on the Examiner if restriction is not required.

As the Examiner indicated, all of the claims of the present application fall with the same class, Class 514. Additionally, according to the Examiner, all of the present claims also fall within the same subclass, subclass 2. Thus, applicants submit that no serious burden would be imposed on the Examiner if restriction were not imposed. Moreover, all of the currently pending claims are related in that they all concern methods for regulating gastrointestinal motility and also in that all claims relate to exendin, i.e., the use of exendin or an exendin agonist.

Accordingly, applicants' election of Group I is provisional, with traverse, and applicants request that the restriction requirement be reconsidered and withdrawn.

The Examiner has also required election of a species of: (1) molecule; (2) type of beneficial regulation of gastrointestinal motility; (3) method of diagnosis; and (4) gastrointestinal disorder. Applicants provisionally elect, with traverse, the following species, as required by the Examiner.

Claim 1: exendin

Claims 1-3: exendin-4

Claims 1-3 and 6: magnetic resonance imaging

Claims 1-3, 9 and 10: acute diverticulitis

With regard to the species election required by the Examiner, it is applicants' understanding that the policy behind

the election of species requirement is to avoid waste of the Examiner's time in searching the subject matter of several species claims in the event that the generic claim encompassing such species claims is ultimately determined to be unpatentable.

See, e.g., M.P.E.P. 809.02(d), which provides that, "Where only generic claims are presented no restriction can be required except in those cases where the generic claims recite such a multiplicity of species that an unduly extensive and burdensome search is necessary." See also M.P.E.P. 809.02(c) (2), which states: "When a generic claim is subsequently found to be allowable . . . , applicant should be advised of the allowable generic claim and that claims drawn to the non-elected species are no longer withdrawn since they are fully embraced by the allowed generic claim.

As noted above, however, because the field of exendin science is relatively new, the searching and examination of the present application should not be unduly burdensome. In this case, the policy behind the election among species requirement is inapplicable, and applicants request that the requirement be withdrawn. Applicants also note the statement in M.P.E.P. 806.04(a) that "a reasonable number of species may be claimed in one application."

If there is any fee due in connection with this request, please charge Deposit Account No. 01-0535 for the appropriate amount.

Respectfully submitted,

Dated: September 8, 1998

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